HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.24979 of 2000

Between:

Saini Ramaiah and others. … Petitioners

and

Deputy Secretary to Government of India, Freedom Fighters Division, Ministry of Home Affairs, Freedom Fighters Wing, Lok Nayak Bhavan, Khan Market, New Delhi.

… Respondent

: O R D E R :

Counsel for the Petitioners : Sri S. Sreenivas Reddy

Counsel for respondent : Sri A. Rajasekhar Reddy, Asst. Solicitor General of India.

8th August, 2006

In this petition, the petitioners have prayed for issue of a direction to the respondents to sanction pension in their favour under "Swatantrata Sainik Samman Pension Scheme, 1980" (for short ' the 1980 scheme').

In the affidavit filed by petitioner No.5, Medaram Bikshamaiah, it has been averred that petitioner Nos.1, 3, 4 and 5 are freedom fighters and petitioner No.2 is the dependant wife of deceased freedom fighter Sri Tammineni Lakshminarasaiah. According to them, they had participated in Arya Samaj movement. Their grievance is that despite legal notices dated 28.10.1998 and 28.10.2000 sent by their advocate, the respondent has not entertained their claim for grant of pension under the 1980 Scheme.

In paragraph 3(iii) of the counter-affidavit filed by Shri P.K.Kaul, Under Secretary in the Ministry of Home Affairs, New Delhi, the following averments have been made:

> "That the case of the petitioner along with the cases of others who are similarly placed and involved in the Arya Samaj Movement could not be decided by this respondent as an investigation has been ordered and detailed report from the State government of Andhra Pradesh has been sought about the genuineness of the claims. Though the Screening Committee, had recommended for grant of pension, their recommendations are not mandatory but advisory in nature. It is for the Government to verify the genuineness of the claim and grant pension in deserving cases on submission of requisite proof. This view has also been upheld by the Hon'ble Supreme Court in the case of M.L. Bhandari. Further, this respondent has received an

adverse interim report from the C.I.D. of Government of Andhra Pradesh stating that an enquiry was conducted by the senior officer of C.I.D. in 39 cases so far and it is found that the persons who were questioned, narrated like parrots saying that during the year 1939 they went to Hyderabad on a call given by Pt. Narendraji and held demonstration against the Nizam. They have informed that a warrant was issued against them and hence they led an underground life, for which there is absolutely no evidence to prove that they participated in the movement. It is also mentioned in the report that most of the petitioners do not look that much old as the alleged demonstration took place in 1939. Therefore, sanction of pension without any evidence is not proper and it is certainly a burden on the tax paying citizens.

That in view of the above submissions, a decision was taken by the Respondent Ministry to call for a detailed verification report from the State Government on 3.10.1997 in all cases. The said report is still awaited despite repeated reminders, the last being dated 30.8.2000. Under the circumstances, it is not possible for the Government to grant pension in favour of the petitioners."

I have heard learned counsel for the parties and perused the record.

In my opinion, the writ petition is liable to be dismissed because the petitioners have miserably failed to establish their identity as freedom fighters for the purpose of grant of pension under the 1980 Scheme. In paragraphs 2 and 3 of the affidavit filed by petitioner No.5, it has been averred that petitioners No.1, 3, 4 and 5 and husband of petitioner No.2 have taken part in Arya Samaj movement, but the deponent is silent about the year in which they have taken part in Arya Samaj movement. Not only this, the affidavit is conspicuously silent about participation of petitioners No.1, 3, 4 and 5 and husband of petitioner No.2 in Hyderabad liberation movement. It is not the

pleaded case of the petitioners nor any evidence has been produced before the Court to show that petitioners 1, 3, 4 and 5 and the husband of petitioner No.2 had suffered imprisonment or had gone underground in connection with Hyderabad liberation movement or they had otherwise taken part in the freedom movement so as to be treated as freedom fighters for the purpose of the 1980 Scheme. The legal notices issued on behalf of the petitioners are also conspicuously silent about the period during which they had taken part in Arya Samaj movement and Hyderabad liberation movement.

In view of the above, it is not possible to entertain the prayer of the petitioners for issue of a direction to the respondent for sanction of pension in their favour under the 1980 Scheme.

With the above observations, the writ petition is dismissed.

8th August, 2006 **G.S. SINGHVI, CJ**

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